

# TITLE 13

## STREETS AND PUBLIC IMPROVEMENTS

### Chapter 1 EXCAVATION PERMIT

#### 13-1-1. Definitions.

- (a) “**Applicant**” means any Person who makes application for a permit.
- (b) “**Business**” means any place in the City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.
- (c) “**City**” means Sandy City, a municipal corporation of the State of Utah.
- (d) “**Engineer**” means the City Engineer, or his /her authorized representative.
- (e) “**Emergency**” means any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.
- (f) “**Sandy City Standard Specifications**”, or “**Specifications**,” means the latest published version of the Sandy City Standard Specifications And Details For Municipal Construction.
- (g) “**Failure**” means a Work Site Restoration which fails to meet Specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of Failure shall be further defined in the Sandy City Standard Specification.
- (h) “**Fee Schedule**” means the standard Fee Schedule adopted by the Sandy City Council as a part of its annual budget process.
- (i) “**Infrastructure Provider**” means a Person providing to another, all or part of the

necessary System which uses the right-of-way.

(j) **“Operator”** means any Person who provides service over a System, or who otherwise controls or is responsible for the operation of such a System.

(k) **“Permittee”** means any Person which has been issued a permit and thereby has agreed to fulfill the requirements of this ordinance.

(l) **“Person”** means and includes any natural Person, partnership, firm, association, Provider, corporation, company, organization, or entity of any kind.

(m) **“Property Owner”** means Person or Persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

(n) **“Provider”** means an Operator, Infrastructure Provider, Reseller, System Lessee, or Public Utility Company.

(o) **“Public Utility Company”** means any company subject to the jurisdiction of the Utah State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.

(p) **“Public Way”** means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within Public Ways of the City.

(q) **“Resident”** means the Person or Persons currently making their home in Sandy City.

(r) **“Storm Drain”** means a dedicated pipe, conduit, water way, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include Private Drain Lines.

(s) **“System”** means all conduits, manholes, and all other equipment, wire and appurtenances owned, leased, or used by a Provider in the construction, ownership, operation, use or maintenance of a System.

(t) **“Work Site Restoration”** means and includes the restoring of the original ground or paved hard surface area to comply with Sandy City Standard Specifications, and includes but is not limited to repair, cleanup, backfilling, compaction, and stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

### **13-1-2. Permit Required; Basis for Issuance**

Any Person desiring to perform work of any kind in a Public Way within the City, shall make application for a permit. The decision by the City to issue a permit shall include, among

other factors determined by the City, the following:

- a. The capacity of the Public Way to accommodate the facilities or structures proposed to be installed in the Public Way;
- b. The damage or disruption, if any of public or private facilities, improvements, or landscaping previously existing in the Public Way;
- c. The public interest in minimizing the cost and disruption of construction from numerous excavations of the Public Way.
- d. The public interest in maintaining a reserve capacity in the Public Way for other future public services.

### **13-1-3. Permit Application Requirements.**

Application for a permit shall be filed with the Engineer on a form or forms to be furnished by the City. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits, provided, however, contractors may obtain the permit in the contractor's name.

(a) No Person shall be eligible to apply for or receive permits to do work within the Public Ways of the City, save and except the following:

- (1) Contractors licensed by the state as general contractors;
- (2) Providers; either licensed by the state as contractors or using contractors licensed by the state;
- (3) Property owners installing, replacing, or maintaining sidewalk, or driveway approach, or other work approved by the Engineer, upon a portion of the Public Way adjacent to their residence; or
- (4) Persons offering a service which requires occupation of the Public Way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

(b) The Engineer may deny the issuance of permits to contractors, utility companies, or other permit Applicants who have shown by past performance that in the opinion of the Engineer they will not consistently conform to the Specifications, or the requirements of this ordinance.

(c) When necessary, in the judgment of the Engineer, to fully determine the relationship of the work proposed to existing or proposed facilities within the Public Ways, or to determine whether the work proposed complies with the Specifications, the Engineer may require the filing of engineering plans, Specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.

(d) It shall be unlawful for any Person to commence work upon any Public Way until the Engineer has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this ordinance, or in the Specifications.

(e) The disapproval or denial of an application by the Engineer may be appealed by the Applicant to the Public Works Director by filing of a written notice of appeal within ten days of the action of the Engineer. The Public Works Director shall hear such appeal, if written request therefor be timely filed as soon as practicable, and render his/her decision within two weeks following notice of such appeal.

(f) In approving or disapproving work within any Public Way, or permits therefor, in the inspection of such work; in reviewing plans, sketches or Specifications; and generally in the exercise of the authority conferred upon him/her, the Engineer shall act in such manner as to preserve and protect the Public Way and the use thereof, but shall have no authority to govern the actions or inaction of Permittees and Applicants or other Persons which have no relationship to the use, preservation or protection of the Public Way.

(g) A permit is not required from the Engineer for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-paved areas of the Public Way, as outlined in the Sandy City Standard Specifications

#### **13-1-4. Emergency Work.**

(a) Any Person maintaining pipes, lines, or facilities in the Public Way may proceed with work upon existing facilities without a permit when Emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.

(b) In the event that Emergency work is commenced on or within any Public Way of the City during regular business hours, the Engineer shall be notified within one-half hour from the time the work is commenced. The Person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to Sandy City Standard Specifications, the Manual on Uniform Traffic Control Devices and other applicable laws, regulations, or generally recognized practices in the industry.

(c) Any Person commencing Emergency work in the Public Way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which City offices are open for business after such work is commenced. A permit for such Emergency work may be issued which shall be retroactive to the date when the work was begun, at the discretion of the Engineer.

#### **13-1-5. Permit Fees.**

(a) The City shall charge and the Permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit as outlined in the Fee Schedule adopted by the City Council. Such costs could include costs for reviewing the project

and issuing the permit, inspections of the project, deterioration of the Public Way or diminution of the useful life of the Public Way, and other costs to the City associated with the work to be done under the permit. All costs shall be assessed in a non-discriminatory manner.

(b) The Engineer may waive permit fees as outlined in the Sandy City Standard Specifications

(c) Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and Work Site Restoration associated with each undertaking may be charged by the City to each Permittee, in addition to the permit fee.

### **13-1-6. Permit - Contents - Duration and Extensions.**

(a) Each permit application shall state the starting date and estimated completion date. Work shall be completed within seven days from the starting date or as determined by the Engineer. Such determination shall be based upon factors reasonable related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:

(1) The scope of work to be performed under the permit;

(2) Maintaining the safe and effective flow of pedestrian and vehicular traffic on the Public Way affected by the work;

(3) Protecting the existing improvements to the Public Way impacted by the work;

(4) The season of the year during which the work is to be performed as well as the current weather and its impact on public safety and the use of the Public Way by the public;

(5) Use of the Public Way for extraordinary events anticipated by the City. The Engineer shall be notified by the Permittee of commencement of the work at least twenty-four hours prior to commencing work. The permit shall be valid for the time period specified in the permit.

(b) If the work is not completed during such period, prior to the expiration of the permit, the Permittee may apply to the Engineer for an additional permit or an extension, which may be granted by the Engineer for good cause.

(c) The length of the extension requested by the Permittee shall be subject to the approval of the Engineer.

### **13-1-7. Permit - No Transfer or Assignment.**

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided,

however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this ordinance and under said permit.

### **13-1-8. Compliance with Specifications, Standards, Traffic-Control Regulations; Site Permittee Identification.**

(a) The work performed in the Public Way shall conform to the requirements of the Specifications and traffic control regulations of the City, copies of which shall be available from the-Engineer, kept on file in the office of the Engineer and be open to public inspection during office hours.

(b) Where a job site is left unattended, before completion of the work, signage with minimum two inch high letters shall be attached to a barricade or otherwise posted at the site, indicating the Permittee's name, or company name, telephone number, and after hours telephone number.

(c) All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to Residents and Businesses fronting on the Public Way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or Persons. Barricades must be in place until all of the Permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, etc. The Police Department and Fire Department shall be notified at least 24 hours in advance of any planned excavation requiring street closure or traffic detour.

(d) Any work performed from October 15 until April 15 shall be subject to conditions for winter work outlined in the Specifications, including the installation of a temporary patch during this period, and removal and replacement with a permanent patch after April.

### **13-1-9. Other Highway Permits.**

(a) Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the City limits, shall not be required to obtain permits from the City under the provisions of this ordinance, unless the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any City permit shall not be construed to permit or allow work on a another jurisdictions roadway, within the City without a permit from that jurisdiction.

### **13-1-10. Relocation of Structures in Public Ways.**

(a) The Engineer may direct any Person owning or maintaining facilities or structures in the Public Way to alter, modify or relocate such facilities or structures as the Engineer may require as set forth herein. Sewers, pipes, drains, tunnels, conduits, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication

facilities shall specifically be subject to such directives. The Person owning or maintaining the facilities or structures shall, at their own cost and expense and upon reasonable written notice by the City, promptly protect, or promptly alter or relocate such facilities or structures, or part thereof, as directed by the City. In the event that such Person refuses or neglects to conform to the directive of the City, the City shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such Person. Such Person shall pay to the City all costs incurred by the City in connection with such work performed by the City, including also design, engineering, construction, materials, insurance, court costs and attorneys fees.

(b) Any directive by the Engineer shall be based upon of the following:

(1) The facility or structure was installed, erected or is being maintained contrary to law, or determined by the Engineer to be structurally unsound or defective;

(2) The facility or structure constitutes a nuisance as defined under State statute or City ordinance. (This Section shall not, however, be deemed to diminish the vehicle impound authority of the Police Department);

(3) The authority under which the facility or structure was installed has expired or has been revoked;

(4) The facility or structure is not in conformity with public improvements consistent with the General Plan of the City for the area; or

(5) The Public Way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction.

(6) The grades or lines of the Public Way are to be altered or changed.

(c) This obligation does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later incorporated into the Public Way, if that prior private easement grants a superior vested right.

(d) Any Person owning or maintaining facilities or structures in the Public Way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the City Engineer shall be guilty of a class B misdemeanor. All costs of alteration, modification or relocation shall be borne by the Person owning or maintaining the facilities or structures involved.

(e) The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the System and appurtenances on, over or under the Public Way, in which event the City shall not be liable therefor to a Person. The City shall notify a Person in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action

taken under this subsection.

### **13-1-11. Impact of Excavation on Existing Improvements.**

(a) If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with City standards for such.

(b) Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

(c) (1) At any time a Permittee disturbs the yard, residence or the real or Personal property of a private Property Owner or the City, such Permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

(2) The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the Permittee. Further, a Permittee shall reimburse a Property Owner or the City, for any actual damage caused by the Permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing shall require the Permittee to pay a subscriber or private Property Owner when that subscriber or private Property Owner requests that the Permittee remove, replace or relocate improvements associated with the service provided by the Permittee to the Property Owner and when the Permittee exercises due care in the performance of that service, or when the subscriber or private Property Owner provided false information to the Permittee on which the Permittee relied to its detriment.

(d) Examples of types of acts specifically included in this Section are the following:

(1) Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate, equipment, cable or other Appurtenances of the Permittee;

(2) Installation or removal of equipment or other appurtenances of the Permittee's System within a private Property Owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the Permittee;

(3) Temporarily relocating or moving a piece of personal property or a fixture of a private Property Owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the Permittee; or

(4) Permanently removing a Permittee's equipment or other



appurtenances due to the revocation, termination or non-renewal of the franchise (if applicable).

(e) Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the Engineer prior to the blockage of the channel.

(f) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employ to perform the tasks pursuant to the permit.

(g) The requirements of this ordinance shall not apply to the removal by a Permittee, of a permanent structure placed by a Property Owner in a Public Way, unless such Property Owner has received prior written permission from the City granting the Property Owner the right to install a permanent structure on a Public Way.

### **13-1-12. Restoration of Public Property.**

(a) The Permittee shall, at its own expense, restore any and all improvements in the Public Way as outlined in the Sandy City Standard Specifications, within the time limits set forth in the permit, unless additional time is granted in writing by the Engineer.

### **13-1-13. Insurance Requirements.**

(a) Before a permit is issued, the Applicant shall furnish to the City evidence that such Applicant has a comprehensive general liability and property damage policy that includes contractual and general liability coverage endorsed with the following limits and provisions:

(1) A minimum of One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than Two Million Dollars (\$2,000,000) in the aggregate. The coverage shall be in the nature of Broad Form Commercial General Liability coverage. The City may increase or decrease minimum insurance limits, depending on the potential liability of any project.

(2) All policies shall include the City, its employees, officers, officials, agents, volunteers and assigns, as additional insureds. Any reference to the "City" shall include the City, its employees, officers, officials, agents, volunteers and assigns.

(3) The coverage shall be primary insurance as respects the City, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the City, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the Permittee's insurance and shall not contribute to or with it.

(4) Any failure to comply with reporting provisions of the policy shall not effect coverage provided to the City, its employees, officers, officials, agents, volunteers, and assigns.

(5) Coverage shall state that the Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(6) Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

(7) The insurance companies issuing the policy or policies shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy.

(8) Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested sent to the City.

(9) Each policy shall be endorsed to indemnify, hold harmless and defend the City and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the Permittee, his/her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.

(10) Each policy shall be endorsed to indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained by any Person occurring by reason of doing any work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.

(b) Insurance is to be placed with insurers with an AM Best rating of not less than B+VIII.

(c) The Permittee shall furnish the City with certificates of insurance and original endorsements affecting coverages required by the permit. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the Permittee shall be prepared to provide such copies prior to the issuance of the permit.

(d) If any of the required policies are, or at any time become, unsatisfactory to the City as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the City, the Permittee shall promptly obtain a new policy, submit the same to the City for approval, and thereafter submit verification of coverage as required by the City. Upon failure to furnish, deliver and maintain such insurance as provided herein, the City may declare the permit to be in default and pursue any and all remedies the City may have at law or in equity, including those actions outlined in this ordinance.

(e) The Permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(f) Any deductibles or self-insured retentions shall be specified on the certificates of insurance and shall be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its employees, officers, officials, agents, volunteers or assigns, or the Permittee shall procure a bond, in a form acceptable to the City, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

(g) A Property Owner performing work adjacent to his/her residence may submit proof of a homeowner's insurance policy with the coverage limits specified above in lieu of the insurance requirements of this Section.

(h) A Provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances:

(1) if such company shall submit satisfactory evidence in advance that:

(i) It is insured in the amounts set forth herein, or has complied with State requirements to become self insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and

(ii) Said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this ordinance; or

(2) The work to be performed under the permit issued to the Applicant is to be performed by the City, in which case insurance or other risk transfer issues shall be negotiated between the City and the Applicant by separate agreement.

### **13-1-14. Bond - When Required, Conditions, Warranty.**

(a) Except as noted in this ordinance, each Applicant, before being issued a permit, shall provide the City with acceptable corporate surety bond the minimum amount of \$5,000 to guarantee faithful performance of the work authorized by a permit granted pursuant to this

ordinance. The amount of the bond required may be increased or decreased at the discretion of the Engineer whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this ordinance. The form of the bond and the entity issuing the bond shall be subject to the approval of the City.

(b) Public utilities franchised by the City shall not be required to file a corporate surety bond if such requirement is expressly waived in the franchise documents currently in force.

(c) The bond required by this Section shall be conditioned as follows:

(1) That the Permittee shall fully comply with the requirements of the Specifications relative to work in the Public Way, and respond to the City in damages for failure to conform therewith;

(2) That after work is commenced, the Permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the Public Way in accordance with Specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary;

(3) That the Permittee shall guarantee the materials and workmanship for a period of three years from completion of such work, with reasonable wear and tear excepted; and

(4) That unless authorized by the Engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the Sandy City Standard Specifications.

### **13-1-15. Hold Harmless Agreement; Limitations on City Liability.**

(a) Each excavation permit application shall contain the following language, to which each Permittee shall agree in writing prior to issuance of a Permit: “The Permittee agrees to save the City, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any negligence or other wrongful act under the permit”.

(b) This ordinance shall neither be construed as imposing upon the City, its officers, employees and agents, any liability or responsibility for damages to any Person injured by or by reason of the performance of any work within the Public Way, or under a permit issued pursuant to this ordinance; nor shall the City, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

### **13-1-16. Work without Permit - Penalty.**

(a) A stop order may be issued by the Engineer directed to any Person or Persons doing or causing any work to be done in the public way without a permit.

(b) Any Person found to be doing work in the Public Way without having obtained a permit, as provided in this ordinance, shall be required to pay a permit fee, as well as penalties outlined in the Fee Schedule.

### **13-1-17. Failure to Comply; Default in Performance.**

(a) Any permit may be revoked or suspended and a stop order issued by the Engineer, after notice to the Permittee for:

(1) Violation of any condition of the permit, the bond, or of any provision of this ordinance;

(2) Violation of any provision of any other ordinance of the City or law relating to the work; or

(3) Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.

(b) A suspension or revocation by the Engineer, and a stop order, shall take effect immediately upon entry thereof by the Engineer and notice to the Person performing the work in the Public Way. Notice to the Person performing the work shall be accomplished when the Engineer has posted a stop work order at the location of the work. Subsequent to posting a stop work order and written notice will be mailed, return receipt requested, to the address indicated by the Permittee on the permit.

(c) Whenever the Engineer finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Engineer to be reasonably necessary for the completion of the work.

(d) In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of Persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the City for the cost of doing the work, as set forth in the notice, the City may perform the work, at the discretion of the Engineer, with City forces or contract forces or both, and suit may be commenced by the City against the contractor and bonding company and such other Persons as may be liable, to recover the entire amount due to the City, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

### **13-1-18. Failure to Conform to Sandy City Standard Specifications.**

For failure to conform to the Specifications, the Engineer may:

- (a) Suspend or revoke the permit;
- (b) Issue a stop order;
- (c) Order removal and replacement of faulty work;
- (d) Require an extended warranty period; and/or
- (e) Negotiate a cash settlement to be applied toward future maintenance costs.

### **13-1-19. Appeal of Suspension, Revocation, or Stop Order.**

Any suspension, revocation or stop order by the Engineer may be appealed by the Permittee to Public Works Director by filing a written notice of appeal within ten days of the action of the Engineer. The Public Works Director shall hear such appeal, if written request therefor be timely filed, as soon as practicable, and render his/her decision within a reasonable time following filing of notice of appeal.

### **13-1-20. Tampering with Traffic Barricades.**

It shall be unlawful for any Person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

### **13-1-21. Conflict with Governing Provisions.**

Should there be a conflict between the provisions of this ordinance and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a Public Way, the more restrictive provisions of the aforesaid documents shall apply.

### **13-1-22. Violation - Penalty.**

Unless otherwise specified in this ordinance, a violation of any provision of this ordinance, or failure to comply with an order of suspension, revocation or stop work, shall be a class B misdemeanor. Each day any permit violation exists shall be a separate offense. No criminal conviction shall excuse the Person from otherwise complying with the provisions of this ordinance. Penalties will be assessed to the Permittee according to the Fee Schedule for each day the violation exists.

## **Chapter 2      STREET SIGNS**

### **13-2-1.      Street Sign Fees.**

No final subdivision approval, final C.U.P. process approval or site plan approval with regard to any new development, whether residential, commercial, or industrial, within the limits of Sandy City shall be granted until such time as the applicant(s) shall have paid to the City a fee in the amount set forth elsewhere in this chapter, which fee shall be used for the installation of such street signs upon that property being newly developed. No such fee paid to the City pursuant to the provisions of this chapter shall be refunded.

### **13-2-2.      Amount of Fees.**

- (a) It shall be the duty of the Community Development Department, in cooperation with the Engineering Department and the Building & Safety Division, to determine the number of street signs required in any new development, whether it be residential, commercial, or industrial, proposed to be done in Sandy City. On the basis of this determination, the Community Development Department shall indicate to the developer the number of street signs required to be installed and shall also indicate to the developer the amount of the fee which shall be paid in connection with the provisions of this chapter by the developer.
- (b) The developer shall pay to the City the cost of each street sign required in connection with the proposed development.

## **Chapter 3      REGULATORY SIGNS**

### **13-3-1.      Regulatory Sign Installation Fee.**

No final subdivision approval, final C.U.P. process approval or site plan approval with regard to any new development, whether residential, commercial or industrial, within the limits of Sandy City shall be granted until such time as the applicant(s) shall have paid to the City a fee in the amount set forth elsewhere in this chapter, which fee shall be used for the installation of regulatory signs upon that property being newly developed. No such fee paid to the City pursuant to the provisions of this chapter shall be refunded.

### **13-3-2.      Amount of Fees.**

- (a) It shall be the duty of the Community Development Department, in cooperation with the Engineering Department and Building and Safety Division, to determine the number of regulatory signs required in any new development, whether it be residential, commercial or industrial, proposed to be done in Sandy City. On the basis of this determination, the Community Development Department shall indicate to the developer the number of regulatory signs required to be installed and shall also indicate to the developer the amount of the fee which shall be paid in connection with the provisions of this chapter by the developer.
- (b) The developer shall pay to the City the cost of each regulatory sign required in connection with the proposed development.



## **Chapter 4      DEDICATION AND IMPROVEMENT OF PUBLIC ROADS AND STREETS IN CONNECTION WITH DEVELOPMENT**

### **13-4-1.      Dedication Required.**

Except as otherwise provided herein, no building or structure shall be erected, reconstructed, structurally altered or enlarged and no building permit shall be issued therefor on any lot which abuts upon a street which is presently developed or upon a street which is shown upon the road plan, which is an element of the Concept 2000 or Master Plan of the City, which road plan is presently found upon a map in the office of the Director of Community Development for Sandy City which may and said plan shall be amended from time to time by the Sandy City Council, unless a portion of such lot within the proposed right-of-way as shown on the plan has been dedicated and improved or such dedication and improvement has been assured to the satisfaction of the Sandy City Engineer and Director of Community Development. The dedication and improvements shall meet the standards as may be required by resolution of the Sandy City Council. The maximum area required to be dedicated shall not exceed twenty- five percent (25%) of any lot which was of record on the effective date of this ordinance in Salt Lake County Recorder's office. Such dedication shall not reduce the lot size to a width of less than fifty (50) feet or a total size of less than five thousand (5,000) square feet.

### **13-4-2.      Exceptions.**

Dedication shall not be required on those portions of a lot occupied by a main building existing on the effective date of this ordinance. The lot area so occupied is defined to be the area required to meet the minimum width, front, back and side yard regulations. Additional improvements shall not be required upon a lot where the roadway, hard surfacing, curb, gutter, and sidewalk improvements have previously been installed to the standards adopted by Sandy City, unless the use of the property shall change from a residential or agricultural use to a commercial, industrial or manufacturing use, dedication shall not be required for additions or accessory buildings incidental to a residential building, used as a residence, existing on the lot on the effective date of this ordinance, provided that no additional dwelling units are created.

### **13-4-3.      Dedication Procedure.**

- (a) Any person or other entity required to dedicate land under the provisions of this ordinance shall make an offer to dedicate the said property and such offer shall be properly executed by all parties of interest, including beneficiaries and trustees in deeds of trust as shown by a current preliminary title report prepared by a title company. Such report shall be furnished by the applicant. The offer to dedicate shall be filed with the Development Director and shall be made upon the form approved by the City Attorney and in such terms as shall be binding upon the owner, his heirs, assigns, and successors in interest and shall continue in full force

and effect until accepted or rejected by the Sandy City Council until one year from the date such offer shall have been filed for processing, whichever occurs first. The offer shall provide that the dedication will be complete and recorded in the office of the County Recorder on its acceptance by the City Council.

- (b) The Development Director shall accept or reject the offer for dedication within thirty (30) days after it has been filed and such offer shall thereafter be promptly processed by the administrative staff of the City and submitted to the City Council for final acceptance. In the event that the offer is rejected by the City Council or not processed within one year, the Development Director shall issue a release from such offer which shall be recorded in the office of the County Recorder unless the parties thereto wish to have the time of the offer extended.
- (c) For the purposes of this ordinance, dedication shall be considered as satisfactorily assured when the Development Director accepts the offer to dedicate provided for herein. Upon acceptance of the offer by the Development Director, the appropriate administrative departments shall be notified and the permit issuance process shall be allowed to proceed.

#### **13-4-4. Improvement Procedure.**

Any person or entity required to make improvements pursuant to the provisions of this ordinance shall complete the said improvements, bond for the completion of the said improvements, or otherwise assure that the same shall be completed to the satisfaction of the City Engineer and in accordance with the standards as established by the City.

#### **13-4-5. Building Permit Issuance.**

When dedication and improvements as required by the provisions of this ordinance shall have been completed or assured as provided herein, a building permit may be issued upon compliance with all other ordinances and regulations of the City.

#### **13-4-6. Fees Waived.**

No fee shall be charged for any service provided by the City in connection with any dedication or improvement required by the provisions of this chapter and which is not a part of a subdivision proceeding.

#### **13-4-7. Lots Affected by Dedication.**

On a lot which is affected by dedication, required by the provisions of this ordinance, all yards, setbacks, required parking areas, loading spaces and building locations for new buildings or structures or additions thereto shall be measured and calculated from the new lot lines created by said dedication. In applying all other provisions of this chapter, the area of such lot shall be considered as that which existed immediately prior to such required dedication.

#### **13-4-8. Improvement Standards.**

- (a) As previously mentioned herein, all dedications and improvements shall be made in accordance with these standards and specifications as may have been adopted by resolution of the Sandy City Council.
- (b) The Sandy City Engineer may approve variations from the aforesaid standards as may be necessary with consideration given to the conditions of terrain and existing improvements contiguous to the property involved.

**13-4-9. Appeal.**

- (a) Any person or entity may appeal any determination made in connection with the administration, enforcement or other provisions of this ordinance as set forth herein to the Sandy City Council. The appeal must be written and provide sufficient information to allow for a proper determination.
- (b) The City Council may make minor modifications in the requirements of this chapter as may be necessary to prevent undue hardship under the facts of each individual case. However, no such appeal shall be granted unless it is in conformity with the spirit and intent of this chapter.
- (c) The City Council may determine that the City shall contribute toward the cost of the required improvements when it is determined by the City Engineer that the said improvements are greatly in excess of the average cost to other property owners in the immediate vicinity who are required to install improvements under the provisions of this chapter. The City Council may also establish a procedure whereby the costs of required improvements may be reimbursed on a proportional basis when such improvements benefit property not yet developed.

**13-4-10. Severability.**

If any section of this chapter or part thereof shall be found to be unconstitutional or invalid, no other portion or part thereof shall be affected and shall remain in full force and effect.

## **Chapter 5      IMPLEMENTATION OF TRANSPORTATION ELEMENT OF COMPREHENSIVE PLAN**

### **13-5-1.      Purpose.**

In order to conform with the provisions of Section 10-9-24, U.C.A. 1953, as amended, and for the purpose of preserving the integrity of the official map as adopted as a portion of the transportation element of the Comprehensive Plan, the City Council of Sandy City, State of Utah hereby adopts this Chapter 5 of Title 13 of the Revised Ordinances of Sandy City.

### **13-5-2.      Preservation.**

For the purpose of preserving the integrity of the official street map of the transportation element of the Comprehensive Plan, no permit shall be issued for the construction of any building, structure or part thereof on any land located within the boundaries of any street as shown on the official map of the transportation element of the Comprehensive Plan. This prohibition shall apply with regard to the mapped lines of any street as it may appear on any amendment to the official map as may be adopted by the legislative body. This prohibition as to construction shall include such requirements as may be made with regard to the width, construction and other engineering designs of the streets as may be mapped on the official map.

### **13-5-3.      Appeal.**

The Sandy City Board of Adjustment shall have the power upon an appeal filed with it by the owner of any such land, to authorize the grant of a permit for a building or structure or part thereof within the boundaries of a street location in any case in which the Board of Adjustment, upon the evidence, finds as follows:

- (a) That the property of the appellant of which such mapped-street location forms a part will not yield a reasonable return to the owner unless such permit is granted;  
or
- (b) That, balancing the interest of the municipality in preserving the integrity of the official map and the interest of the owner in the use and benefits of the property, the grant of such permit is required by consideration of justice in equity.

### **13-5-4.      Public Hearing.**

In connection with any appeal brought in conformance with the just preceding section, the Board of Adjustment shall hold a public hearing thereon within ninety (90) days of the filing of such appeal with the Board of Adjustment. The notice of such public hearing shall conform with the notice given for amendments to the Sandy City Zoning Map, both as that notice conforms to requirements of law and procedure as adopted.

**13-5-5. Power of Board of Adjustment.**

In the event that the Board of Adjustment shall decide to authorize a building permit for a building, structure or part thereof on any land located within the boundaries of any street as shown on the official map, the said Board of Adjustment shall have the power to specify the exact location, ground area, height and other details and conditions of the extent and character and duration of the building, structure or part thereof that may be permitted.

## **Chapter 6      SIDEWALK REPAIR**

### **13-6-1.**

A property owner who desires to have concrete repaired or replaced due to defects in City sidewalks or curb and guttering abutting the owner's property, may petition the City for the work to be done through one or more of the following means:

- (a) If the adjacent property is a residence, the owner may employ a contractor to make the required replacement. Such replacement must be done according to City specifications, to the satisfaction and approval of the City Engineer, only after obtaining the required permit. However, no fee shall be assessed for the permit required by this subsection.
- (b) If the adjacent property is a residence, the owner may agree in writing, upon forms approved by the City Attorney's office, to pay fifty percent (50%) of the cost thereof in advance and the City shall pay the remaining fifty percent (50%) of the cost of replacement. In such case, the City shall make the replacement or employ a contractor to make the same, subject to the availability of funds. For a replacement made to defective concrete adjacent to an apartment house, business, owner of the adjacent property shall pay one hundred percent (100%) of the total cost of such replacement.
- (c) The City may propose the creation of a special improvement district to make the required repairs and to levy assessment on property in accordance with the Utah Municipal Improvement District Act (10-16-1 et seq., Utah Code Anno. 1953). The creation of improvement districts require notice to property owners, hearing, and opportunity for owners to protest. Districts may be defeated if a sufficient number of protests are filed, as defined by statute.
- (d) This section does not preclude the City from replacing defective adjacent to private property, at its own expense, as it may otherwise deem appropriate.

## **Chapter 7      STREET LIGHTING**

### **13-7-1.      Short Title:**

This ordinance shall be known as the “Sandy City Street Light Ordinance”, and may be so cited. All previously enacted Sandy City street light ordinances including Ordinance #84-59 and #92-9 are hereby repealed.

### **13-7-2.      Purpose:**

The purpose of this ordinance is to provide for the safety and welfare of residents and businesses

located in Sandy City by providing for the installation of an adequate street lighting system to illuminate the public streets of residential and commercial areas.

### **13-7-3. Definitions:**

(a) **Approved Plat** shall mean a plat and supporting documents prepared to indicate the type and placement of street lights within the scope of a development. Placement and type of street lights shall conform with specifications as approved by the Director of Public Utilities.

(b) **As-Built Drawings** shall mean a plat prepared after street light installations have been completed indicating actual utility easements, location of street lights, wiring diagrams and any other pertinent information relating to the installation of street lights within a development.

(c) **Commercial Development** shall mean any development occupied with or engaged in commerce.

(d) **Developer** shall mean any subdivider or any person or organization that develops, or intends to develop or sell property for the purpose of future development.

(e) **Public Street** shall be that street, parkstrip and sidewalk area dedicated to a political jurisdiction for public transportation.

(f) **Residential Development** shall mean any development providing permanent living accommodations.

(g) **Street Light** shall mean any combination of luminaire(s), pole, anchor base (if required), appurtenances, and underground wiring required to provide roadway lighting.

(h) **Street Light Improvement Fee** shall mean a fee assessed for the installation of street lights within a new residential or commercial development. Fee amounts shall reflect the actual cost of installation of all street lights and related improvements within the development and shall be approved by the City Council .

(i) **Street Light Specifications** shall mean those specifications, standards and requirements as established and approved by the Director of Public Utilities pertaining to the type of luminaire, pole, anchor base (if required), wiring, appurtenances and installation procedures for the installation of a street lighting system.

(j) **Street Light Standard** shall mean the classification of street light based on the width of the street right-of-way in which that street light will be installed. Street Light Standards are as follows:

**Major Arterial** shall mean those streets with a dedicated Right-of-Way of 106+ feet.

**Minor Arterial** shall mean those streets with a dedicated Right-of-Way of 84 feet.

**Major Collector** shall mean those streets with a dedicated Right-of-Way of 80

feet.

**Minor Collector** shall mean those streets with a dedicated Right-of-Way of 66 feet.

**Local (Residential)** shall mean those streets with a dedicated Right-of-Way of 50 feet.

(k) **PUD:** shall mean either a residential or commercial Planned Unit Development.

(l) **Public utility easement** shall mean the area designated for access to construct or maintain utilities on privately or publicly owned land.

#### **13-7-4. Installation**

(a) **Residential Development:** For all developments approved after the effective date of this ordinance, the developer shall install street lights as shown on the approved subdivision plat or site plan and in accordance with Sandy City specifications and post a guarantee for the installation. The developer must also provide a dedicated public utility easement from each respective power source to each street light

(b) **Commercial Development:** For all developments approved after the effective date of this ordinance, the developer shall install street lights as shown on the approved subdivision plat or site plan and in accordance with Sandy City specifications and post a guarantee for the installation. The developer must also provide a dedicated public utility easement from each respective power source to each street light

(c) **PUD:** For all developments approved after the effective date of this ordinance, the developer shall install street lights as shown on the approved subdivision plat or site plan and in accordance with Sandy City specification and post a guarantee for the installation. The developer must also provide a dedicated public utility easement from each respective power source to each street light.

#### **13-7-5. Development Review Process**

The developer must comply with the Sandy City Subdivision Ordinance, Sections 15-34 and 15-35 relating to, but not limited to, review and approval procedures, bonding, and inspections.

#### **13-7-6. Standards and Specifications**

All street lights intended to illuminate the public street shall be installed in accordance with the Street Light Standards and Specifications as established and approved by the Director of Public Utilities. Street light systems shall be installed as designated on approved plats.

#### **13-7-7. As-Built Drawings**

The contractor or his/her designee shall submit completed as-built drawings to the Department of Public Utilities within 90 days of the completion of the installation of a street light system within



a development.